



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : EMBIL et al. Confirmation No: 2411  
Appl. No. : 10/761,390  
Filed : January 22, 2004  
Title : TOPICAL PHARMACEUTICAL AND/OR COSMETIC  
DISPENSE SYSTEMS

TC/A.U. : 1614  
Examiner : Not Assigned Yet

Docket No.: : EMBI3001/REF  
Customer No: : 23364

**INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to Rule 37 C.F.R. §§ 1.51(b), 1.56, 1.97 and 1.98, this Information Disclosure Statement is being submitted with the references in the above-identified patent application. A listing of these documents is submitted herewith on Form PTO-1449. The U.S. Patents are listed but copies are no longer required and therefore only the foreign and non-patented references are herewith enclosed.

This Information Disclosure Statement is submitted prior to the mailing date of the first Official Action on the merits received by Applicants.

The Examiner is requested to acknowledge consideration of the information provided in this paper in accordance with prescribed procedures.

Respectfully submitted,  
BACON & THOMAS, PLLC

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| B/O Form PTO-1449<br>APR 28 2004<br>U.S. Department of Commerce<br>Patent and Trademark Office<br>Information Disclosure Statement Applicant | Atty. Docket Number | Serial Number |
|  | EMBI3001/REF        | 10/761,390    |
|  | Applicant           |               |
|  | EMBIL et al.        |               |
|  | Filing Date         | Group         |
|  | January 22, 2004    | 1614          |

## U.S. Patent Documents

| Examiner Initial | Document Number | Date     | Patentee/Applicant | Class | Subclass | Filing Date if Appropriate |
|------------------|-----------------|----------|--------------------|-------|----------|----------------------------|
|                  | 5,767,098       | 16/06/98 | KLEIN et al.       | 514   | 43       |                            |
|                  | 5,466,446       | 14/11/95 | STIEFEL et al.     | 424   | 62       |                            |
|                  | 6,462,025 B2    | 08/10/02 | Mohan VISHNUPAD    | 514   | 29       |                            |
|                  | 5,145,675       | 08/09/92 | Richard WON        | 424   | 78.83    |                            |
|                  | 5,955,109       | 21/09/99 | WON et al.         | 424   | 501      |                            |
|                  | 5,356,040       | 18/10/94 | Fulvio REGGIANI    | 222   | 129      |                            |
|                  | 5,879,716       | 09/03/99 | KATZ et al.        | 424   | 501      |                            |
|                  | 5,446,028       | 29/08/95 | KLEIN et al.       | 514   | 43       |                            |
|                  | 6,013,637       | 11/01/00 | KLEIN et al.       | 514   | 43       |                            |

## Foreign Patent Documents

| Examiner Initial | Document Number | Publication Date | Country/Agency | Class | Subclass | Translation |    |
|------------------|-----------------|------------------|----------------|-------|----------|-------------|----|
|                  |                 |                  |                |       |          | Yes         | No |
|                  | 02/45662 A2     | 13/06/02         | WO             |       |          |             |    |
|                  | 01/91726 A1     | 06/12/01         | WO             |       |          |             |    |
|                  | 02/47662 A2     | 20/06/02         | WO             |       |          |             |    |
|                  | 0 644 129 A1    | 22/03/95         | EP             |       |          |             |    |
|                  | 0 306 236       | 08/03/89         | EP             |       |          |             |    |

## Other Documents (Including Author, Title, Date, Pertinent Pages, Place of Publication, Etc.)

|  |  |
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|  | K. EMBIL and S. NACHT, "The Microsponge Delivery System (MDS): a topical delivery system with reduced irritancy incorporating multiple triggering mechanisms for the release of actives", J. MICROENCAPSULATION, 1996, vol. 13, no. 5, 575-588.  |
|  | WESTER et al., "Controlled release of benzoyl peroxide from a porous microsphere polymeric system can reduce topical irritancy", JOURNAL OF THE AMERICAN ACADEMY OF DERMATOLOGY, vol. 24, no. 5, pp. 720-726, May 1991.  |
|  | EURY et al., "Controlled release subduced", CHEMTECH, January 1992, 22, pp. 42-46.   |
|  | EURY et al., "Microsponge Delivery Systems (MDS): A Topical Delivery System with Mutiple Mechanism for Triggering the Release of Actives", Cosmetic and Pharmaceutical Applications of Polymers, 1991, pp. 169-179.  |
|  | NACHT et al., "The Microsponse: A Novel Topical Programmable Delivery System", 1990, Marcel Dekker, Inc., pp. 299-325.   |
|  | Lookingbill et al., "Treatment of acne with a combination clindamycin/benzoyl peroxide gel compared with clindamycin gel, benzoyl peroxide gel and vehicle gel: Combined results of two double-blind investigations", Journal of the American Academy of Dermatology, vol. 37, no. 4, 1997, pp. 590-595. |

Examiner

Date Considered

EXAMINER: Initial if citation is considered, whether or not citation is in conformance with MPEP 609; Draw a line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

|  |  |                                    |
|--|--|------------------------------------|
| B/O Form PTO-1449<br><br>U.S. Department of Commerce<br>Patent and Trademark Office<br><br>Information Disclosure Statement by Applicant | Atty. Docket Number<br><b>EMBI3001/REF</b> | Serial Number<br><b>10/761,390</b> |
|  | Applicant<br><b>EMBIL et al.</b>           |                                    |
|  | Filing Date<br><b>January 22, 2004</b>     | Group<br><b>1614</b>               |

## U.S. Patent Documents

| Examiner Initial | Document Number | Date     | Patentee/Applicant   | Class | Subclass | Filing Date if Appropriate |
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|                  | 6,117,843       | 12/09/00 | BAROODY et al.       | 514   | 24       |                            |
|                  | 4,690,825       | 01/09/87 | Richard WON          | 424   | 501      |                            |
|                  | 6,248,849 B1    | 19/06/01 | Milan F. SOJKA       | 526   | 336      |                            |
|                  | 5,834,577       | 10/11/98 | Milan F. SOJKA       | 526   | 323.2    |                            |
|                  | 5,830,960       | 03/11/98 | Milan F. SOJKA       | 526   | 194      |                            |
|                  | 6,007,264       | 28/12/99 | Kurtis James KOPTIS  | 401   | 132      |                            |
|                  | 3,535,422       | 20/10/70 | COX et al.           | 424   | 164      |                            |
|                  | 4,056,611       | 01/11/77 | Henry Y. YOUNG       | 424   | 62       |                            |
|                  | 4,318,907       | 09/03/82 | KLIGMAN et al.       | 424   | 230      |                            |
|                  | 4,923,900       | 08/05/90 | Richard L. DeVillez  | 514   | 714      |                            |
|                  | 4,387,107       | 07/06/83 | KLEIN et al.         | 424   | 338      |                            |
|                  | 4,228,163       | 14/10/80 | William E. BLISS     | 424   | 240      |                            |
|                  | 3,969,516       | 13/07/76 | Richard B. STOUGHTON | 424   | 181      |                            |
|                  | 4,411,893       | 25/10/83 | JOHNSON et al.       | 424   | 181      |                            |
|                  | 4,692,329       | 08/09/87 | KLEIN et al.         | 424   | 81       |                            |
|                  | 4,607,101       | 19/08/86 | Joel E. BERNSTEIN    | 514   | 24       |                            |
|                  | 4,497,794       | 05/02/85 | KLEIN et al.         | 424   | 81       |                            |
|                  | 4,962,133       | 09/10/90 | CHROMECEK et al.     | 521   | 56       |                            |
|                  | 4,962,170       | 09/10/90 | CHROMECEK et al.     | 526   | 212      |                            |
|                  | 4,873,091       | 10/10/89 | JANKOWER et al.      | 424   | 489      |                            |
|                  | 4,690,825       | 01/09/87 | Richard WON          | 424   | 501      |                            |
|                  |                 |          |                      |       |          |                            |
|                  |                 |          |                      |       |          |                            |

## Foreign Patent Documents

| Examiner Initial | Document Number | Publication Date | Country/Agency | Class | Subclass | Translation |    |
|------------------|-----------------|------------------|----------------|-------|----------|-------------|----|
|                  |                 |                  |                |       |          | Yes         | No |
|                  | 2 088 717 A     | 16/06/82         | GB             |       |          |             |    |
|                  | 1 594 314       | 30/07/81         | GB             |       |          |             |    |

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